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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	)	
	)	
Matthews III, *et al.*	)	Group Art Unit: 2173
	)	
Serial No. 09/422,654	)	Examiner: B. Huynh
	)	
Filed: October 22, 1999	)	Atty. Dkt. No. 03797.84665

FOR: User Friendly Remote System Interface with Menu Highlighting

REPLY BRIEF

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This Reply Brief is filed in conjunction with a Petition under 37 CFR § 1.181 and/or § 1.183. Appellant requests entry of the Reply Brief as set forth in the Petition in response to the Examiner's Answer mailed September 27, 2002.

CLAIMS APPEALED

Claims 40-48 were submitted for appeal in the Appeal Brief mailed September 3, 2002. In the Examiner's Answer, claims 40-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiggins (U.S. Patent No. 5,463,727). The rejection of claim 40-48 under 35 U.S.C. 112, first paragraph, as containing subject matter not contained in the specification, has been withdrawn.

A typographical error was detected in the Appeal Brief filed September 3, 2002. In the Appendix of the appeal brief on page 9, the last line in claim 1 should recite "...enlarged shape surrounding said current selection."

ARGUMENT

Appellant continues to maintain, contrary to the assertions in the Examiner's Answer, that Wiggins neither anticipates nor renders obvious any of claims 40-48.

Claims 40-48 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wiggins.

In the Appeal Brief on page 7, lines 4 - 7, appellant argues that:

> Figure 1 in the Wiggins' disclosure illustrates menu items separated by a distance, however, there is no teaching or suggestion of each shape being separated from an adjacent shape by a spacing distance based on border parameters.

To rebut appellant's contention, the Examiner's Answer, at page 4, lines 8-10 purports that: "The border parameters of the rectangles, which are the length and width of each rectangle defined by screen pixel coordinates defines the spacing distance." Appellant firmly disagrees with this implication.

Wiggins discloses a display of a plurality of menu choices (col. 3, line 3). However, Wiggins does not teach or suggest the spacing distance between the menu choices. The Examiner asserts that the "border parameters of the rectangles, which are the length and width of each rectangle ... define the spacing distance." See Examiner's Answer, page 4, lines 8-10. This is incorrect. Even if one were to assume that the "border parameters" encompass the length and width of each rectangle as the Examiner appears to be suggesting, Wiggins would still not teach or suggest a spacing distance based on border parameters. Even assuming the Examiner's

assumption that "the length and width of each rectangle" are "border parameters" of the rectangles, the so-called "border parameters" of Wiggins (i.e., the length and width of each rectangle, according to the Examiner's interpretation) do not define the spacing distance. Rather, the spacing distance is defined by the distance between the rectangles which is independent of the length and width of the rectangles themselves. The length and width of a given rectangle would define, at best, the size of that particular rectangle itself but would not necessarily provide information on that particular rectangle's relationship with other items being displayed.

An example is presented and diagrammed in Exhibit I and Exhibit II to illustrate this point: if a first rectangle is defined as measuring 3X2 centimeters (depicted as A) and a second rectangle is defined as 1X2 centimeters (depicted as B), then the length and width of each of the individual rectangles (i.e., the "border parameters" as the Examiner has defined them) would be known. It would not follow from this, however, that such so-called "border parameters" as the Examiner has defined them would "define the spacing distance" between the rectangles. Without more, one of skill in the art would have no information as to the spacing between the two rectangles or the relationship between the rectangles but would merely possess information concerning the size of each individual rectangle. As Exhibit I and Exhibit II illustrate in this example, the spacing distance between the rectangles A and B is d in Exhibit I while the spacing distance between the rectangles A and B is d' in Exhibit II. The spacing distance d is not necessarily equivalent to the spacing distance d' as illustrated in Exhibit I and Exhibit II. Moreover, despite the fact that the "border parameters" as the Examiner has defined them are known (i.e., 3X2 cm and 1X2 cm in this example), the spacing distances d and d' are not known.

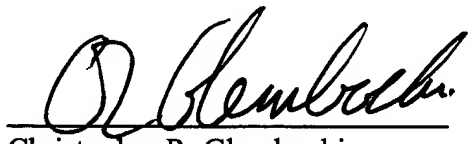
Thus, contrary to the Examiner's assertions, the length and width of the rectangles do not "define the spacing distance."

Wiggins does not teach or suggest the spacing distance based on border parameters. At best, the distance between rectangles illustrated in Fig. 1 of Wiggins is randomly determined as there is no discussion at all in Wiggins as to how it is determined, if at all. This is very different from the present invention where each shape is separated from an adjacent shape by a spacing distance based on border parameters.

CONCLUSION

For the foregoing reasons and the reasons set forth in the Appeal Brief, the final rejection of claims 40-48 under 35 U.S.C. §103(a) is improper and should be reversed.

Respectfully submitted,

By: 

Christopher R. Glembocki
Registration No. 38,800

BANNER & WITCOFF, LTD
1001 G Street, N.W.
Eleventh Floor
Washington, D.C. 20001
(202) 508-9100
Dated: November 15, 2002

Exhibit I

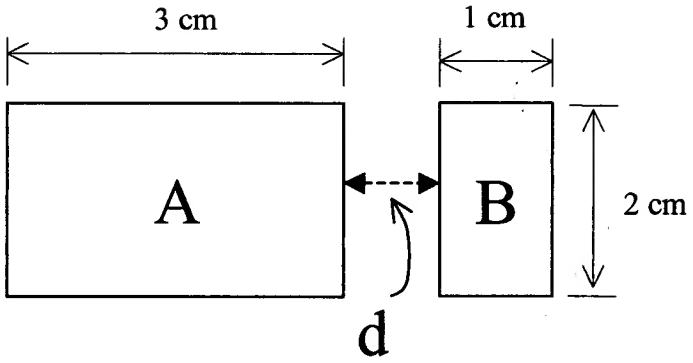


Exhibit II